

1 MICHAEL C. HETEY, ESQ.  
2 Nevada Bar No. 5668  
3 HAROLD J. ROSENTHAL, ESQ.  
4 Nevada Bar No. 10208  
5 THORNDAL ARMSTRONG DELK  
6 BALKENBUSH & EISINGER  
7 1100 East Bridger Avenue  
8 Las Vegas, NV 89101-5315  
9 Tel.: (702) 366-0622  
10 Fax: (702) 366-0327  
11 [mch@thorndal.com](mailto:mch@thorndal.com)  
12 [hjr@thorndal.com](mailto:hjr@thorndal.com)

13  
14 *Attorneys for Defendants MATTHEW JAMES  
15 WOLCHOK, FOX FREIGHT, INC. and  
16 CTU LIMITED GROUP*

17 **UNITED STATES DISTRICT COURT**

18 **DISTRICT OF NEVADA**

19 AMARA MECELL BOYD, an individual,  
20 Plaintiff,

21 vs.

22 MATTHEW JAMES WOLCHOK, an  
23 individual; FOX FREIGHT, INC., a  
24 corporation; CTU LIMITED GROUP, a  
25 corporation; DOES 1-10; and ROE BUSINESS  
26 ENITIES 1-10,

27 Defendants.

28 CASE NO. 2:22-cv-716

DEFENDANTS MATTHEW JAMES  
WOLCHOK, FOX FREIGHT, INC.  
AND CTU LIMITED GROUP'S  
PETITION FOR REMOVAL TO  
FEDERAL COURT

19  
20 **DEFENDANTS MATTHEW JAMES WOLCHOK, FOX FREIGHT, INC. AND CTU  
21 LIMITED GROUP'S PETITION FOR REMOVAL TO FEDERAL COURT**

22 Defendants MATTHEW JAMES WOLCHOK, FOX FREIGHT, INC. and CTU  
23 LIMITED GROUP ("Defendants"), by and through their attorneys of record, THORNDAL  
24 ARMSTRONG DELK BALKENBUSH & EISINGER, hereby remove Case Number A-21-  
25 832244-C from the Eighth Judicial District Court for Clark County, Nevada to the United States  
26 District Court for the District of Nevada pursuant to 28 United States Code sections 1441 and  
27 1332. A true and correct copy of the Complaint is attached hereto as Exhibit A.

1 On April 2, 2021, Plaintiff AMARA MECELL BOYD filed a Complaint in the Eighth  
2 Judicial District for Clark County Nevada, alleging causes of action for Negligence and  
3 Negligence *Per Se*. Plaintiff alleges she is a resident of Clark County, Nevada. Defendant  
4 MATTHEW JAMES WOLCHOK is a resident of the State of Florida. Defendants FOX  
5 FREIGHT, INC. and CTU LIMITED GROUP are Illinois Corporations with their principal  
6 places of business in Elk Grove Village, Illinois and Chicago, Illinois, respectively. Therefore,  
7 there is complete diversity of citizenship pursuant to 28 USC 1332 (a).

9 Defendant FOX FREIGHT, INC. was served on May 19, 2021, Defendant CTU  
10 LIMITED GROUP was served on June 17, 2021, and Defendant MATTHEW JAMES  
11 WOLCHOK was served by Certified Mail Return Receipt Requested through the DMV upon  
12 which the DMV acknowledged receipt on August 17, 2021 and mailed the Summons and  
13 Complaint documents to Defendant MATTHEW JAMES WOLCHOK at the best address  
14 available. Although, DMV service was completed, it was not sent to Defendants' Counsel until  
15 March 21, 2023, when Plaintiff's new counsel provided it to defense counsel at which time  
16 Defendants filed their Answer to the Complaint on March 28, 2022.  
17

19 This Petition is timely because Defendants were informed on April 27, 2022 that Plaintiff  
20 is asserting \$165,866.06 in past medical specials. Previously, the medical specials that had been  
21 disclosed were \$4,941.00 and there was no basis to remove the case to Federal Court until April  
22 27, 2022 when, for the first time, Plaintiff disclosed that in fact she had incurred well over the  
23 amount in controversy. After suit was first filed, Plaintiff's prior counsel was negotiating with  
24 Defendants' insurance carriers and then Defendants' counsel on the basis of a pre-suit demand  
25 that included \$4,941.00 in medical treatment, so when the Answer was filed on March 28, 2022  
26 there was no basis at that time to seek removal as Defendants had not been informed that in fact  
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1 Plaintiff had incurred \$165,866.06 in medical treatment. Plaintiff's prior counsel withholding  
2 that fact from Defendants constituted bad faith.

3 DATED this 4<sup>th</sup> day of May 2022.  
4

5 THORNDAL ARMSTRONG DELK  
6 BALKENBUSH & EISINGER

7 /s/ Michael C. Hetey, Esq.  
8 MICHAEL C. HETEY, ESQ.  
9 Nevada Bar No. 5668  
10 HAROLD J. ROSENTHAL, ESQ.  
11 Nevada Bar No. 10208  
12 1100 East Bridger Avenue  
13 Las Vegas, Nevada 89101  
14 *Attorneys for Defendants MATTHEW JAMES*  
15 *WOLCHÖK, FOX FREIGHT, INC. and*  
16 *CTU LIMITED GROUP*

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 4th day of May 2022, service of the above and  
foregoing **DEFENDANTS MATTHEW JAMES WOLCHOK, FOX FREIGHT, INC. AND**  
**CTU LIMITED GROUP'S PETITION FOR REMOVAL TO FEDERAL COURT** was  
made upon each of the parties by placing a true and correct copy thereof in a sealed envelope  
placed in the United States Mail, postage pre-paid and addressed as follows.

Brian P. Clark, Esq.  
Lukas B. McCourt  
CLARK MCCOURT  
7371 Prairie Falcon Road, Suite 120  
Las Vegas, NV 89128  
*Attorneys for Plaintiff*  
AMARA MECHELL BOYD

*/s/ Jennifer Hodge*  
An employee of THORNDAL ARMSTRONG  
DELK BALKENBUSH & EISINGER

## **EXHIBIT A**

**COMP**

1 MICHAEL C. VAN, ESQ., # 3876  
 2 TRAVIS J. ROBERTSON, ESQ., # 13387  
**SHUMWAY VAN**  
 3 8985 South Eastern Avenue, Suite 100  
 4 Las Vegas, Nevada 89123  
 Tel: (702) 478-7770  
 Fax: (702) 478-7779  
 michael@shumwayvan.com  
 travis@shumwayvan.com  
*Attorneys for Plaintiff*

CASE NO: A-21-832244-C  
 Department 15

EIGHTH JUDICIAL DISTRICT COURT  
 CLARK COUNTY, NEVADA

AMARA MECHELL BOYD, an individual,

Case No.:  
 Dept No.:

Plaintiff,

vs.

COMPLAINT

MATTHEW JAMES WOLCHOK, an individual; FOX FREIGHT, INC., a corporation; CTU LIMITED GROUP, a corporation; DOES 1-10; and ROE BUSINESS ENTITIES 1-10

Defendants.

Plaintiff AMARA MECHELL BOYD (“*Plaintiff*”), by and through counsel of record undersigned, complains against Defendants MATTHEW JAMES WOLCHOK, (“*Mr. Wolchock*”) FOX FREIGHT, INC (“*Fox Freight*”), CTU LIMITED GROUP (“*CTU*”), DOES 1-10, and ROE BUSINESS ENTITIES 1-10, as follows.

**PARTIES IN JURISDICTION**

1. The events and circumstances giving rise to this Complaint occurred in the city of Las Vegas, Clark County, Nevada.

2. Plaintiff, at all times material herein is and was a resident of Clark County, State of Nevada.

3. Upon information and belief, Mr. Wolchok, at all times material herein, was a resident of the State of Florida, with sufficient minimum contacts to subject it to the jurisdiction

**SHUMWAY VAN**  
 8985 South Eastern Avenue, Suite 100  
 Las Vegas NV 89123  
 Tel (702) 478-7770 Fax (702) 478-7779

1 of this Court.

2       4. Upon information and belief, Fox Freight, at all times material herein, was a  
3 corporation conducting business in the state of Nevada, with sufficient minimum contacts to  
4 subject it to the jurisdiction of this Court.

5       5. Upon information and belief, CTU, at all times material herein, was a  
6 corporation conducting business in the state of Nevada, with sufficient minimum contacts to  
7 subject it to the jurisdiction of this Court.

8       6. Defendants DOES 1-10 (“*Does*”) and ROE BUSINESS ENTITIES 1-10 (“*Roe*  
9 *Business Entities*”) are set forth herein pursuant to Rule 10 of the Nevada Rules of Civil  
10 Procedure. They constitute all persons or business entities currently unknown to Plaintiff who are  
11 believed to be responsible for the events and happenings in any of the following ways, including,  
12 but not limited to:

- 13       a. Parties responsible in some manner for the events and happenings herein referred to  
14           that caused injuries and damages proximately to Plaintiff;
- 15       b. Parties that are the agents, servants, employees, and/or contractors of the Defendants,  
16           each of them acting within the course and scope of their agency, employment, or  
17           contract;
- 18       c. Parties that own, lease, manage, operate, secure, and/ or are responsible for premises  
19           or property involved in this matter; and
- 20       d. Parties that have assumed the liabilities of any of the Defendants by virtue of an  
21           agreement, sale, transfer or otherwise.

22       At such time when the names of said DOES 1-10 and ROE BUSINESS ENTITIES 1-10  
23 have been ascertained, Plaintiff will request leave from the court to amend this Complaint, insert  
24 their true names and capacities, and adjoin them in this action. All the Defendants listed in this  
25 action, including DOES 1-10 and ROE BUSINESS ENTITIES 1-10, are referred to herein as  
26 “*Defendants*.”

27       7. Jurisdiction is obtained and venue is properly set in the Eight Judicial District  
28 Court for Clark County, Nevada.

**SHUMWAY VAN**  
8985 South Eastern Avenue, Suite 100  
Las Vegas NV 89123  
Tel (702) 478-7770 Fax (702) 478-7779

## **GENERAL ALLEGATIONS**

6. Plaintiff incorporates all foregoing paragraphs as though these paragraphs were fully set forth herein.

7. On April 11, 2019, Plaintiff was at a full stop sign facing north at the intersection of Wynn Road and Harmon Avenue in Las Vegas, Nevada.

8. Mr. Wolchok was directly to the left of Plaintiff at the same intersection, driving a large truck and pulling an approximately 53 foot-long trailer.

9. While Plaintiff was still stopped, Mr. Wolchok made a wide right turn onto eastbound Harmon, causing the trailer and/or truck to strike Plaintiff's vehicle.

10. The truck driven by Mr. Wolchok was owned, operated, controlled, and/or maintained by Fox Freight, CTU, Does, and/or Roe Business Entities.

12. At the time of the collision, Mr. Wolchok was an employee, agent, and/or representative of Fox Freight, CTU, Does, and/or Roe Business Entities, acting within the scope of his employment, agency, and/or representation.

## **FIRST CAUSE OF ACTION**

## Negligence

13. Plaintiff incorporates all foregoing paragraphs as though these paragraphs were fully set forth herein.

14. Mr. Wolchok owed Plaintiff a duty of reasonable care to operate the truck and trailer in a safe and responsible manner under the circumstances.

15. Mr. Wolchok breached this duty of care by making an unsafe right-hand turn and causing the trailer and/or truck to strike Plaintiff's vehicle.

16. The truck and trailer driven by Mr. Wolchok was owned, operated, controlled, and/or maintained by Fox Freight, CTU, Does, and/or Roe Business Entities.

17. At the time of the collision, Mr. Wolchok was an employee, agent, and/or representative of Fox Freight, CTU, Does, and/or Roe Business Entities, acting within the scope of his employment, agency, and/or representation.

18. As such, Fox Freight, CTU, Does, and/or Roe Business Entities are also liable for Mr. Wolchok's actions under the theory of respondent superior.

19. As a direct and proximate result of the foregoing negligence, Plaintiff sustained bodily injuries and had to employ physicians and other health care providers to examine, treat, and care for these injuries, and has and/or will sustain damages for future treatment related to the same injuries, as well as lost wages, property damage, mental, physical, emotional pain and suffering, and attorney's fees, all in an amount in excess of \$15,000.00.

## **SECOND CAUSE OF ACTION**

## **Negligence *Per Se***

17. Plaintiff incorporates all foregoing paragraphs as though these paragraphs were fully set forth herein.

18. The actions of Mr. Wolchok violated the applicable traffic laws existing at the time of the collision, thus constituting negligence *per se*.

19. The truck and trailer driven by Mr. Wolchok was owned, operated, controlled, and/or maintained by Fox Freight, CTU, Does, and/or Roe Business Entities.

20. At the time of the collision, Mr. Wolchok was an employee, agent, and/or representative of Fox Freight, CTU, Does, and/or Roe Business Entities, acting within the scope of his employment, agency, and/or representation.

21. As such, Fox Freight, CTU, Does, and/or Roe Business Entities are also liable for Mr. Wolchok's actions under the theory of respondent superior.

22. As a direct and proximate result of the foregoing negligence, Plaintiff sustained bodily injuries and had to employ physicians and other health care providers to examine, treat, and care for these injuries, and has and/or will sustain damages for future treatment related to the same injuries, as well as lost wages, property damage, mental, physical, emotional pain and suffering, and attorney's fees, all in an amount in excess of \$15,000.00.

WHEREFORE, Plaintiff, expressly reserving the right to amend this Complaint prior to or at the time of trial of this action and insert those items of damage not yet fully ascertainable, prays judgment against Defendants as follows:

1. For past and future special damages and general damages for injuries sustained by Plaintiff in an amount in excess of \$15,000.00;
2. For reasonable attorney's fees and costs;
3. For pre-judgment and post-judgment interest at the statutory rate; and
4. For other relief that the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Pursuant to NRCP 38, Plaintiff hereby demands a jury trial.

DATED this 2<sup>nd</sup> day of April, 2021.

## SHUMWAY VAN

/s/ Travis J. Robertson  
MICHAEL C. VAN, ESQ.  
Nevada Bar No. 3876  
TRAVIS J. ROBERTSON, ESQ.  
Nevada Bar No. 13387

**SHUMWAY VAN**  
8985 South Eastern Avenue, Suite 100  
Las Vegas NV 89123  
Tel (702) 478-7770 Fax (702) 478-7779